UNITED STATES PATENT AND TRADEMARK OFFICE

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10/654,188	09/02/2003	Michael Gardner	8C20.1-740	5160

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39513	7590	12/12/2006	HWANG, JOON H

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 September 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>3-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>3-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner..

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The applicants amended claims 3, 12, 14-20, and 22-26 in the amendment

received on 9/20/06.

The pending claims are 3-26.

Response to Arguments

2.   Applicant's arguments filed in the amendment received on 9/20/06 have been

fully considered but they are not persuasive.

A. The applicants argue that the rejection under *35 USC § 112* should be

withdrawn based on fig. 1.

The examiner respectfully traverses.

Fig. 1 does not show "storing said common data in a common data table in

communication with a meta-data table" and "storing said performance data in a

performance data table in communication with said meta-data table". Fig. 1 shows that

the performance/common data tables are populated with data from the

performance/common data sources via the performance/common data loader.

Therefore, the limitations of "storing said common data in a common data table in

communication with a meta-data table and storing said performance data in a

performance data table in communication with said meta-data table" in claims 12 and 21

are not supported by the specification.

B. The applicants argue that *Barry does not teach any distinction, with regard to*

a user interface, between what Applicants refer to as "common data" and what

Applicants refer to as "performance data".

The examiner respectfully traverses.

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., common data refers to data about the network and performance data refers to

statistical data about the performance of the network) are not recited in the rejected

claim(s). Although the claims are interpreted in light of the specification, limitations from

the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

Claim 3 merely recites "specifying at least one of the following input parameters:

common data and performance data". Thus, a user interface does not need to show the

both input parameters. The recited limitation is met as long as a user interface shows

one input parameter for a user to select.

However, the examiner traverses the argument by showing Barry teaches the

both input parameters in a user interface.

It is a well settled rule that a reference must be considered not only for what it

expressly teaches, but also for what it fairly suggests. See *In re Burckel*, 592 F.2d

1175, 201 USPQ 67 (CCPA 1979) and *In re Lamberti*, 545 F.2d 747, 192 USPQ 278

(CCPA 1976) as well as *In re Bode*, 550 F.2d 656, 193 USPQ (CCPA 1977) which

indicates such fair suggestions to unpreferred embodiments must be considered even if

they were not illustrated. Additionally, it is an equally well settled rule that what a reference can be said to fairly suggest relates to the concepts fairly contained therein, and is not limited by the specific structure chosen to illustrate such concepts. See *In re Bascom*, 230 F.2d 612, 109 USPQ 98 (CCPA 1956).

Barry teaches a common data (i.e., product 1585 in fig. 12(a) and geographic 1578 in fig. 12(h) do not vary from report to report, section 234 on page 18). Barry teaches performance data (i.e., report type 1560 in fig. 12(a) and amount column in fig. 12(d) refer to statistical data). Fig. 12 of Barry shows a user interface for specifying at least one of common data and performance data.

Therefore, the applicants arguments are not persuasive.

C. The applicants argue that Barry does not teach or suggest metadata tables.

The examiner respectfully traverses.

It is a well settled rule that a reference must be considered not only for what it expressly teaches, but also for what it fairly suggests. See *In re Burckel*, 592 F.2d 1175, 201 USPQ 67 (CCPA 1979) and *In re Lamberti*, 545 F.2d 747, 192 USPQ 278 (CCPA 1976) as well as *In re Bode*, 550 F.2d 656, 193 USPQ (CCPA 1977) which indicates such fair suggestions to unpreferred embodiments must be considered even if they were not illustrated. Additionally, it is an equally well settled rule that what a reference can be said to fairly suggest relates to the concepts fairly contained therein, and is not limited by the specific structure chosen to illustrate such concepts. See *In re Bascom*, 230 F.2d 612, 109 USPQ 98 (CCPA 1956).

Barry discloses a Corp/ODS mapping table (sections 285 and 287 on page 24) and/or a reference database (section 318 on page 27 and section 329 on page 29) utilized for determining an appropriate location of requested data (sections 285 and 287 on page 24). Thus, Barry teaches metadata tables.

Therefore, the applicants arguments are not persuasive.

D. The applicants argue that *Barry does not teach or suggest separate files that contain common data and performance data.*

The examiner respectfully traverses.

It is a well settled rule that a reference must be considered not only for what it expressly teaches, but also for what it fairly suggests. See *In re Burckel,* 592 F.2d 1175, 201 USPQ 67 (CCPA 1979) and *In re Lamberti,* 545 F.2d 747, 192 USPQ 278 (CCPA 1976) as well as *In re Bode,* 550 F.2d 656, 193 USPQ (CCPA 1977) which indicates such fair suggestions to unpreferred embodiments must be considered even if they were not illustrated. Additionally, it is an equally well settled rule that what a reference can be said to fairly suggest relates to the concepts fairly contained therein, and is not limited by the specific structure chosen to illustrate such concepts. See *In re Bascom,* 230 F.2d 612, 109 USPQ 98 (CCPA 1956).

Barry discloses a StarOE database (item 39 in fig. 2 and section 199 on page 14), NetCap database (item 40(b) in fig. 2 and section 209 on page 15), and/or a first database (section 550 on page 57) containing network information data, thus teaching a common data file. Barry discloses a ODS database (item 400 in fig. 10 and section 217

on page 16), a TVS database (item 500 in fig. 10 and section 217 on page 16), and/or a

second database (section 551 on page 58) containing statistical data, thus teaching a

performance data file.

Therefore, the applicants' arguments are not persuasive.

E. The applicants argue that the limitations of claims 6-11 are not anticipated by

Barry; however, the examiner respectfully traverses in the rejection (paragraph 7)

below.

Claim Objections

3.   Claims 11, 20, and 26 are objected to because of the following informalities:

- "a common data loader" in 3rd line of claim 11 should be "a performance

  data loader";

- "a common data loader" in 2nd line of claim 20 should be "a performance

  data loader"; and

- "a common data loader" in 2nd line of claim 26 should be "a performance

  data loader".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of
making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 12-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the enablement requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the

invention.

        The limitations of "storing said common data in a common data table in

communication with a meta-data table and storing said performance data in a

performance data table in communication with said meta-data table" in claims 12 and 21

are not supported by the specification. Since claims 13-20 and 22-26 incorporate the

deficiencies of claims 12 and 21, they are likewise rejected.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

7.   Claims 3-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Barry et

al. (U.S. Publication No. 2005/0216421).

With respect to claim 3, Barry teaches at least one user interface device for

enabling requesting of a network performance report and selection of the configuration

of the report by specifying at least one of the following input parameters: common data

and performance data (i.e., product 1585 in fig. 12(a) and geographic 1578 in fig. 12(h),

section 234 on page 18; report type 1560 in fig. 12(a) and amount column in fig. 12(d),

fig. 5, section 122 on page 6, sections 139-141 on page 8, section 199 on page 14,

section 242 on page 19, and section 302 on page 25). Barry teaches a call statement

module configured to receive and convert said input parameters into a database

procedure call statement (sections 279-280 on page 23). Barry teaches a database

report module programmed to: (i) receive said procedure call statement; (ii) query meta-

data tables comprising network data so as to determine location of information for data

responsive to said call statement (i.e., a Corp/ODS mapping table and/or a reference

database, sections 285 and 287 on page 24, section 318 on page 27, and section 329

on page 29); (iii) receive from said meta-data tables the location information; and, (iv)

use the location information to retrieve data responsive to said call statement (sections

279-280 on page 23, section 318 on page 27, sections 329-330 on page 29, and figs.

20-21). Barry teaches a report presentation module that is programmed to: (i) receive

the responsive data; and (ii) convert the responsive data into the requested network

performance report having the selected configuration (sections 279-280 on page 23 and

section 273 on page 22).

With respect to claim 4, Barry teaches the system provides access to both (i)

performance data comprising statistical measurement data (i.e., a ODS database 400 in

fig. 10 and section 217 on page 16, a TVS database 500 in fig. 10 and section 217 on

page 16, and/or a second database, section 551 on page 58), and (ii) a common data

source containing common data about reported network devices not included in the

statistical measurement data, so as to permit the common data and statistical data to be

grouped by management areas (i.e., a StarOE database 39 in fig. 2 and section 199 on

page 14, NetCap database 40(b) in fig. 2 and section 209 on page 15, and/or a first

database, section 550 on page 57, fig. 21 and sections 313 and 318 on page 27).

With respect to claim 5, Barry teaches a first data file comprising the common

data for at least one network device within said network (i.e., a StarOE database 39 in

fig. 2 and section 199 on page 14, NetCap database 40(b) in fig. 2 and section 209 on

page 15, and/or a first database, section 550 on page 57, fig. 21 and sections 313 and

318 on page 27), and a second data file comprising the performance data for said

device (i.e., a ODS database 400 in fig. 10 and section 217 on page 16, a TVS

database 500 in fig. 10 and section 217 on page 16, and/or a second database, section

551 on page 58).

With respect to claim 6, Barry teaches the common data identifies at least one of

the following output parameters: physical location, technology, vendor, commercial

sector, market, geographic location, related personnel, and air interface technology (i.e.,

geographic 1578 in fig. 12(h), sections 313 and 318 on page 27, and section 319-322

on page 28).

With respect to claim 7, Barry teaches the performance data includes values

related to at least one of the following output parameters: call volume, busiest time

period, quality of service, dropped calls, blocked calls, message volume, maintenance

status, and report status (i.e., report type 1560 in fig. 12(a) and amount and calls

columns in fig. 12(d), sections 313 and 318 on page 27, and section 319-322 on page

28).

With respect to claim 8, Barry teaches the network device comprises at least one

of the following devices: switches, cell sites, and nodes (i.e., termination node, section

322 on page 28, payphone, section 235 on page 18 and section 274 on page 22;

sections 313 and 318 on page 27, sections 319-321 on page 28, and section 407 on

page 39).

With respect to claim 9, Barry teaches a processor programmed to use the

location information to view the first and second data files for the responsive data (i.e., a

Corp/ODS mapping table and/or a reference database, sections 285 and 287 on page

24, section 318 on page 27, and sections 329-330 on page 29, sections 279-280 on

page 23, and figs. 12, 23, and 27).

With respect to claim 10, Barry teaches the system provides access to common

source data regarding the network device, and the system further comprises a common

data loader programmed to load the common source data into the first data file (i.e., a

StarOE server 39 in fig. 2 and section 199 on page 14, NetCap 40(b) in fig. 2 and

section 209 on page 15, section 275 on page 22, section 302 on page 25, sections 313

and 318 on page 27, section 319-322 on page 28, and section 407 on page 39).

With respect to claim 11, Barry teaches the system provides access to

performance source data regarding the network device, and the system further

comprises a common data loader programmed to load the performance source data into

the second data file (i.e., items 555, 570, and 573 in fig. 21, section 275 on page 22,

section 302 on page 25, sections 313 and 318 on page 27, section 319-322 on page 28,

and section 407 on page 39).

With respect to claim 12, Barry teaches retrieving common data related to at

least one network device and retrieving performance data related to said at least one

device (i.e., product 1585 in fig. 12(a) and geographic 1578 in fig. 12(h), section 234 on

page 18; report type 1560 in fig. 12(a) and amount column in fig. 12(d), fig. 5, fig. 23,

section 275 on page 22, section 302 on page 25, sections 313 and 318 on page 27,

section 319-322 on page 28, and section 407 on page 39). Barry teaches storing said

common data in a common data table in communication with a meta-data table and

storing said performance data in a performance data table in communication with said

meta-data table (i.e., a Corp/ODS mapping table and/or a reference database, sections

285 and 287 on page 24, sections 313 and 318 on page 27, and section 329 on page

29, fig. 21, section 275 on page 22, section 302 on page 25, section 319-322 on page

28, and section 407 on page 39). Barry teaches creating a procedure call statement in

response to a request for a report of a specific configuration, wherein the request

includes report parameters selected from at least one of said data tables (fig. 5, fig. 12,

section 122 on page 6, sections 139-141 on page 8, section 199 on page 14, sections

242 and 247 on page 19, sections 279-280 on page 23, and section 302 on page 25).

Barry teaches querying said meta-data table for information regarding data identified by

said call statement and using said information to create a query statement (i.e., a

Corp/ODS mapping table and/or a reference database, sections 285 and 287 on page

24, section 318 on page 27, and sections 329-330 on page 29, sections 279-280 on

page 23, and figs. 20-21). Barry teaches executing said query statement so as to select

data from at least one of said data tables; and using the data selected to produce a

report having said specific configuration (fig. 23, sections 279-280 on page 23 and

section 273 on page 22).

The limitations of claims 13 and 22 are rejected in the analysis of claim 4 above,

and these claims are rejected on that basis.

The limitations of claims 14 and 23 are rejected in the analysis of claim 5 above,

and these claims are rejected on that basis.

The limitations of claim 15 are rejected in the analysis of claim 6 above, and the

claim is rejected on that basis.

The limitations of claim 16 are rejected in the analysis of claim 7 above, and the

claim is rejected on that basis.

The limitations of claim 17 are rejected in the analysis of claim 8 above, and the

claim is rejected on that basis.

The limitations of claims 18 and 24 are rejected in the analysis of claim 9 above,

and these claims are rejected on that basis.

The limitations of claims 19 and 25 are rejected in the analysis of claim 10 above,

and these claims are rejected on that basis.

The limitations of claims 20 and 26 are rejected in the analysis of claim 11 above,

and these claims are rejected on that basis.

The limitations of claim 21 are rejected in the analysis of claim 12 above, and the

claim is rejected on that basis.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joon H. Hwang whose telephone number is 571-272-

4036. The examiner can normally be reached on 9:30-6:00(M~F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hosain T. Alam can be reached on 571-272-3978. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joon Hwang
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12/8/06